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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/072,691	02/07/2002	Lucio Giambattista	P-5023	3218	
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	HOWARD & HOWARD ATTORNEYS, P.C.			GHAFOORIAN, ROZ	
THE PINEHURST OFFICE CENTER, SUITE #101 39400 WOODWARD AVENUE BLOOMFIELD HILLS, MI 48304-5151			ART UNIT	PAPER NUMBER	
			3763	17	
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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary Examiner			Application No.	Applicant(s)				
Examiner Roz Ghafoorian - The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Educations of time may be available under the processors of 3 CFR 1.05(b). In no event, however, may a reply to limity filed If the period time reply be available under the processors of 3 CFR 1.05(b). In no event, however, may a reply to limity filed If the period time is proposed to leave the late this file, down, a may within the standardy preliminary of this (20) days will be considered timely. If the period to reply is a profiled above, he maximum statutory prelice will apply and will evely 53 X (60 MCX)* 150 from the melling date of this communication. If the period to reply is a profiled above, he maximum statutory prelice will apply and will evely 53 X (60 MCX)* 150 from the melling date of this communication. If the period to reply is a profiled above, he maximum statutory prelice will apply the communication. Any exply excessor by the Office interes here here instituted to the communication. Any expl years by the Office interes here here instituted to the communication. The action is FINAL. 20) This action is final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1 and 4-23 is/are pending in the application. 4a) Of the above daim(s) is/are an explication. 4b) Claim(s) is/are allowed. 6c) Claim(s) 1, 4-21, 14-23, is/are rejected. 7c) Claim(s) is/are allowed. 6c) Claim(s) is/are allowed. 6c) Claim(s) is/are allowed. 6c) Claim(s) and the processor a	Office Action Summary		10/072.691	GIAMBATTISTA ET AL.				
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A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ② MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Edutations of them may be available under the provision of 3 CPR 1.15(b). In no event, however, may a reply be timely filled If the period for reply sepoched above is lists than thirty (30) days, a reply within the statutory minical most of reply is specified above is lists than thirty (30) days, a reply within the statutory minical most of reply is specified above is lists than thirty (30) days, a reply within the statutory minical most of reply is specified above, be maximum distative priced will apply and will expire 3(5) (8) MONTHS from the mailing date of this communication. Fallulos is reply within the still or extended period for reply will, by adultion, cause the speciation to inscore ABANCONET (30 U.S. £, 133). Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under £x parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1 and 4-23 is/are pending in the application. 4a) Of the above claim(s) is/are allowed. 6) Claim(s) 1.421, 14-23 is/are rejected. 7) Claim(s) is/are allowed. 6) Claim(s) 3.4221, 14-23 is/are rejected. 7) Claim(s) are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. Application Papers 11) The drawing(s) filed on is/are. a) accepted or b) objected to by the Examiner. Application will be applicated to a provide a paper of the proposed drawings are required in reply to this Office action. 12) The proposed drawing correction filed on is/are. a) approved by disapproved by the Examiner. 13 Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). 14 Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (o a provisional application). 15 Acknowledgment is made of a claim for domestic priority		•						
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DETAILED ACTION

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1, 4-21, 14-23 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No.5201708 to Martin.

Martin teaches safety shield system for a needle cannula comprising a general tubular clip member 200 having a plurality of spaced laterally profiting fingers 52, a generally tubular reciprocal shield including a first portion surrounding the said clip member, a second portion normally surrounding the needle cannula 92 and a plurality of spaced axially extending inwardly opening channel shaped tracks on the inside surface of the shield receiving said laterally projecting resilient fingers of the clip member and guiding said shield axially from a first position wherein said shield second portion surrounds said needle cannula 92 to a second position wherein said needle cannula 92 is exposed, and a spring 50 resiliently biasing said shield axially to normally extend said shield second portion to surround said needle cannula, wherein at least one of said channel shaped tracks includes and opening which receives one of the fingers when said shield is first retracted to said second position and then extended to the first position by the spring and locking the shield in the first position (figure 3)

Response to Arguments

2. Applicant's arguments filed 7-22-2003 have been fully considered but they are not persuasive. Applicant alleges the newly amended claim limitation of needle cannula having resilient with a free end portion that permits one time movement of a shield form

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a first portion to a second position and from second position back to the first is not suggest or disclosed in the prior art. This argument is not persuasive for the following reasons:

- a. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the needle cannula's figures moving from second position back to the first position) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).
- b. Even if applicant has claimed the above limitation the prior art is capable of performing the limitation mentioned in the independent claims as demonstrated by 1, 4 and 7.

Conclusion

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roz Ghafoorian whose telephone number is 703-305-2336. The examiner can normally be reached on 8:30am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 703-308-3552. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

RG October 2, 2003

> BRIAN L. CASLER SUPERVISORY PATENT EXAMINER

TECHNOLOGY CENTER 3700